ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2152 OF 2007
IN
FIRST APPEAL NO.87 OF 2005

- -

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

- -

Mr. Yashodhan Sakhare i/by. M/s. DSK Legal for the applicant.

Mr. Ajay A. Joshi for respondent Nos. 1,2 and 4.

CORAM : ANOOP V. MOHTA,J.

DATED : 16th October, 2007.

P.C.

1. The appellant-plaintiffs' suit for Specific Performance was dismissed, therefore, filed the First Appeal. The suit was filed after expiry of 3 years for specific performance only in reference to respondent No.1. The property involved, therefore, at present stage of the proceedings cannot be subject to any interim order even it comes under prayer clause (b). The

rights, whatever even if any, is now subject to the decision of the first appeal and that is too only in respect of respondent No.1. The property in fact owned by all the members, as a tenant common.

2. In view of this, I am not inclined to grant prayer clauses as claimed now in this application though it was initially granted, but subsequently vacated on 23/02/2007.

2. However, it is made clear that, whatever transfer if made by respondent No.1 will be subject to the decision of the first appeal, is restricted in so far as respondent number one’s share is concerned.

3. The Civil Application is,

disposed of, accordingly.

[ANOOP V. MOHTA, J.]